Supreme Court, U.S.
FILED
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No. 97-1630

In The
Supreme Court of the United States
October Term, 1997

LAURA MELENDEZ,

Petitioner,

vs.

METROPOLITAN LIFE INSURANCE CO.,

Respondent.

On Petition For Writ Of Certiorari To The United States Court Of Appeals For The Second Circuit

RESPONDENT'S OBJECTION TO MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF PETITION FOR CERTIORARI

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CORPORATE STATEMENT

Respondent Metropolitan Life Insurance Company ("MetLife"), a mutual life insurance company, has no parent or subsidiaries that have issued shares to the public. The only affiliates of which MetLife has actual ownership (for its own account) which have issued shares to the public are: (1) Chart House Enterprises, Inc., in which MetLife owns 12.65% of issued, voting shares; (2) Lone Star Industries, Inc., in which MetLife owns 13.47% of issued, voting shares; (3) New England Investment Companies, L.P., in which MetLife owns 48.64% of issued, voting shares; and (4) Dan River, Inc., in which MetLife owns 26% of issued, voting shares.

OBJECTION TO MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF PETITION FOR CERTIORARI

Pursuant to Supreme Court Rule 37.5, respondent MetLife objects to the motion for leave to file *amicus curiae* brief in support of petition for certiorari, filed by Citizen Action of New York and Public Policy and Education Fund, on behalf of themselves and organizations from six other states ("Consumer Organizations"), for the following reasons:

1. Consumer Organizations' motion is not favored under Supreme Court Rule 37.1 because the proposed brief does not contain any relevant matter not already brought to the Court's attention by the petition for writ of certiorari. The brief attempts to make three points. As demonstrated below, none of these points is relevant in this case.

a. The primary focus of Consumer Organizations' brief is public concern about managed health care. That topic is irrelevant in this case. The claim at issue here was not made under a managed care plan. No issue with respect to managed care has ever been raised in this case.

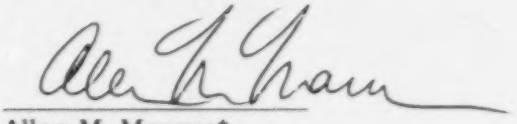
b. Consumer Organizations' brief repeats petitioner's argument that the arbitrary and capricious standard of review unfairly disadvantages ERISA beneficiaries, as compared to claimants under non-ERISA plans. That argument is merely repetitive, and is also irrelevant and incorrect in this case. Petitioner concedes that the same standard of review, which the District Court applied to the ERISA claim below, was also applied by the state court to the non-ERISA claims after remand of those claims. Petition at p. 4.

c. Consumer Organizations conclude their brief by proposing "independent review by qualified health care professionals who do not have any financial interest in the outcome of the decision." Proposed Brief at p. 9. That proposal is irrelevant here. Petitioner did not request administrative review of the benefit denial at issue in this case. Petitioner does not ask this Court to modify the administrative appeal provisions of her plan. Neither petitioner nor Consumer Organizations contend that those provisions fail to meet the requirements of ERISA. To implement Consumer Organizations' proposal, ERISA must be amended to require independent administrative review. That proposal should be directed to Congress, not this Court.

2. Because Consumer Organizations' motion was filed before the Court's consideration of the petition for writ of certiorari, it is not favored under Supreme Court Rule 37.2(b).

WHEREFORE, respondent Metropolitan Life Insurance Co. asks that Consumer Organizations' motion for leave to file *amicus curiae* brief be denied.

Respectfully submitted,



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MetLife®

May 12, 1998

By Federal Express

Francis J. Lorson
Chief Deputy Clerk
Supreme Court of the United States
One First Street, N.E.
Washington, DC 20543

Re: Melendez v. Metropolitan Life Insurance Co.
United States Supreme Court No. 97-1630

Dear Mr. Lorson:

I am enclosing for filing an original and 10 copies of Respondent's Objection to Motion for Leave to File *Amicus Curiae* Brief in Support of Petition for Certiorari as well as an original Certificate of Service.

Also enclosed is an additional copy of the Objection and Certificate of Service which I would appreciate your date stamping and returning to me in the enclosed, self-addressed stamped envelope.

Thank you for your consideration and please feel free to call me if you have any questions.

Sincerely,

Allan M. Marcus

encl.

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